

**DISMISSED, DEFER, NTCAPR, APPEAL**

**U.S. Bankruptcy Court  
Northern District of West Virginia (Martinsburg)  
Adversary Proceeding #: 3:21-ap-00019**

*Assigned to:* Bankruptcy Judge Becker McKay Wyckoff  
Mignault  
*Lead BK Case:* 19-01048  
*Lead BK Title:* David Andrew Levine and Monica Larson  
Levine  
*Lead BK Chapter:* 7  
*Demand:*  
*Nature[s] of Suit:* 72 Injunctive relief –  
other

*Date Filed:* 08/13/21  
*Date Dismissed:* 03/21/22

***Plaintiff***  
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**Thomas Fluharty, Trustee of the  
Bankruptcy Estate of David Levine and  
Monica Levine**  
408 Lee Avenue  
Clarksburg, WV 26301  
(304) 624-7832

represented by **Thomas H. Fluharty**  
408 Lee Avenue  
Clarksburg, WV 26301  
(304) 624-7832  
Fax : 304-622-7649  
Email: [THFDEBTATTY@aol.com](mailto:THFDEBTATTY@aol.com)  
**LEAD ATTORNEY**

**Martin P. Sheehan**  
Martin P. Sheehan, Chapter 7 Trustee  
1 Community St Suite 200  
Wheeling, WV 26003  
304-232-1064  
Email: [sheehanparalegal@wvdsi.net](mailto:sheehanparalegal@wvdsi.net)

***Plaintiff***  
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**Martin P. Sheehan, Trustee of the  
Bankruptcy Estate of Geostellar, Inc.**  
Sheehan & Associates, PLLC  
1 Community St., Ste 200  
Wheeling, WV 26003  
(304) 232-1064

represented by **Patrick S Cassidy**  
Cassidy, Cogan, Shapell & Voegelin, L.C.  
1413 Eoff St  
The First State Capitol  
Wheeling, WV 26003  
304-232-8100  
Fax : 304-232-8200  
Email: [pcassidy@walslaw.com](mailto:pcassidy@walslaw.com)  
**LEAD ATTORNEY**

**Timothy F. Cogan**  
Cassidy, Cogan, Shapell & Voegelin L.C.  
The First State Capitol  
1413 Eoff Street  
Wheeling, WV 26003  
(304) 232-8100  
Fax : 304-232-8352  
Email: [tfc@walslaw.com](mailto:tfc@walslaw.com)

LEAD ATTORNEY

**Martin P. Sheehan**  
(See above for address)

V.

**Defendant**

**Philadelphia Indemnity Insurance Company**  
One Bala Plaza  
Suite 100  
Bala Cynwyd, PA 19004

represented by **David Grassmick**  
Cope Ehlers PC  
135 South LaSalle Street  
Suite 3050  
Chicago, IL 60603  
LEAD ATTORNEY

**Debra Tedeschi Varner**  
Varner & Van Volkenburg PLLC  
360 Washington Avenue  
Clarksburg, WV 26302-2370  
304-918-2840  
Fax : 304-566-1161  
Email: [dtvarner@vv-wvlaw.com](mailto:dtvarner@vv-wvlaw.com)

**Defendant**

**David Andrew Levine**  
2426 Steamboat Run Road  
Shepherdstown, WV 25443  
SSN / ITIN: xxx-xx-3601

represented by **Brian Richard Blickenstaff**  
Turner & Johns, PLLC  
808 Greenbrier Street  
Charleston, WV 25311  
304-720-2300  
Fax : 304-720-2311  
Email: [bblickenstaff@turnerjohns.com](mailto:bblickenstaff@turnerjohns.com)  
LEAD ATTORNEY

Filing Date	#	Docket Text
08/13/2021	<u>1</u>	Adversary case 3:21-ap-00019. Complaint by Thomas Fluharty, Martin P. Sheehan against Philadelphia Indemnity Insurance Company. Receipt Number n/a, Fee Amount \$350. (Attachments: # <u>1</u> Exhibit Verification # <u>2</u> Exhibit Exhibit 1) Nature of Suit: (72 (Injunctive relief – other)) (Sheehan, Martin) (Entered: 08/13/2021)
08/13/2021	<u>2</u>	Motion for Preliminary Injunction Filed by Thomas Fluharty, Martin P. Sheehan and Patrick S. Cassidy. (Attachments: # <u>1</u> Appendix) (Sheehan, Martin) (Entered: 08/13/2021)
08/19/2021	<u>11</u>	Response (" <i>PHILADELPHIA INDEMNITY INSURANCE COMPANY'S PRELIMINARY RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR A BRIEFING SCHEDULE</i> ") Filed by Debra Tedeschi Varner on behalf of Philadelphia Indemnity Insurance Company (related document(s) <u>2</u> Motion for Preliminary Injunction filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). (Attachments: # <u>1</u> Exhibit 1) (Varner, Debra) (Entered: 08/19/2021)
09/03/2021	<u>15</u>	Response (" <i>PHILADELPHIA INDEMNITY INSURANCE COMPANY'S RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION AND</i>

			<i>REQUEST FOR A BRIEFING SCHEDULE</i> ") Filed by Debra Tedeschi Varner on behalf of Philadelphia Indemnity Insurance Company (related document(s) <u>2</u> Motion for Preliminary Injunction filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Proposed Order) (Varner, Debra) (Entered: 09/03/2021)
09/10/2021		<u>17</u>	Reply <i>PLAINTIFF TRUSTEES REPLY TO PHILADELPHIA INDEMNITY INSURANCE COMPANY'S RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION AND REQUEST FOR A BRIEFING SCHEDULE</i> with Certificate of Service Filed by Patrick S Cassidy on behalf of Martin P. Sheehan (related document(s) <u>2</u> Motion for Preliminary Injunction filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). (Cassidy, Patrick). (Entered: 09/10/2021)
09/13/2021		<u>19</u>	Motion to Dismiss Adversary Proceeding Filed by Philadelphia Indemnity Insurance Company. (Attachments: # <u>1</u> "PHILADELPHIA INDEMNITY INSURANCE COMPANY'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS" # <u>2</u> Proposed Order) (Varner, Debra) (Entered: 09/13/2021)
10/01/2021		<u>22</u>	Response of Plaintiffs to Motion to Dismiss with Certificate of Service Filed by Timothy Francis Cogan on behalf of Martin P. Sheehan (related document(s) <u>19</u> Motion to Dismiss Adversary Proceeding filed by Defendant Philadelphia Indemnity Insurance Company). (Cogan, Timothy) (Entered: 10/01/2021)
10/12/2021		<u>26</u>	Reply (" <i>PHILADELPHIA INDEMNITY INSURANCE COMPANY'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS</i> ") Filed by Debra Tedeschi Varner on behalf of Philadelphia Indemnity Insurance Company (related document(s) <u>19</u> Motion to Dismiss Adversary Proceeding filed by Defendant Philadelphia Indemnity Insurance Company). (Varner, Debra) (Entered: 10/12/2021)
11/02/2021		<u>36</u>	Order Denying Motion For Preliminary Injunction (Related Doc # <u>2</u> ) (trs) 11/2/2021. (Entered: 11/02/2021)
03/21/2022		<u>39</u>	Order Granting Motion to Dismiss Adversary Proceeding (Related Doc # <u>19</u> ) (trs) 3/21/2022. (Entered: 03/21/2022)
03/23/2022		<u>40</u>	Notice of Appeal . Fee Amount \$298. Filed by Plaintiffs Thomas Fluharty, Martin P. Sheehan (related document(s) <u>39</u> Order on Motion to Dismiss Adversary Proceeding). Appellant Designation due by 04/6/2022. (Sheehan, Martin) (Entered: 03/23/2022)
03/24/2022		<u>44</u>	Clerk's Service Of Notice of Appeal, and Notice of Deadlines to Designate the Record and Provide Statement of Issues On Appeal. Counsel of Record were served through the notice of electronic filing. Pro se parties are being served with the notice of appeal via the Bankruptcy noticing Center, which two days after the entry of this Notice on the Bankruptcy Clerk's Electronic Docket, places the notice in the mail to the pro se party's last known address maintained by the Bankruptcy Clerk. Evidence of service of the notice on a pro se party is reflected in the BNC Certificate of Service, which is separately entered on the Bankruptcy Clerk's Electronic Docket two days after the entry of this Notice. Parties Served: Thomas H. Fluharty, Martin P. Sheehan, Philadelphia Indemnity Insurance Company, David A. Levine, Brian Richard Blickenstaff, Patrick S Cassidy, Timothy F. Cogan, David Grassmick, Debra Tedeschi Varner (related document(s) <u>40</u> Notice of Appeal filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). (trs) (Entered: 03/24/2022)

03/30/2022		<u>52</u>	Appellant Designation of Contents For Inclusion in Record On Appeal Filed by Plaintiffs Thomas Fluharty, Martin P. Sheehan (related document(s) <u>40</u> Notice of Appeal filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). Appellee designation due by 04/13/2022. Transmission of Designation Due by 04/29/2022. (Sheehan, Martin) (Entered: 03/30/2022)
03/31/2022		<u>53</u>	Transcript regarding Hearing Held 10/28/2021 Remote electronic access to the transcript is restricted until 6/29/2022. The transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber Sarah E. Harless, 304-563-4399 before the deadline for Release of Transcript Restriction. After that date it will be available for inspecting and copying in the Clerk's Office and for downloading through PACER. (related document(s) <u>34</u> ). Redaction Request Due By 4/21/2022. Redacted Transcript Submission Due By 5/2/2022. Transcript access will be restricted through 6/29/2022. (trs) (Entered: 03/31/2022)
03/31/2022		<u>54</u>	Notice of Filing of Official Transcript. (related document(s) <u>53</u> Transcript). (trs) (Entered: 03/31/2022)
04/13/2022		<u>58</u>	Transcript regarding Hearing Held 8/19/2021 Remote electronic access to the transcript is restricted until 7/12/2022. The transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber Christian Naaden, 800-333-2082 before the deadline for Release of Transcript Restriction. After that date it will be available for inspecting and copying in the Clerk's Office and for downloading through PACER. (related document(s) <u>12</u> ). Redaction Request Due By 5/4/2022. Redacted Transcript Submission Due By 5/16/2022. Transcript access will be restricted through 7/12/2022. (trs) (Entered: 04/13/2022)
04/13/2022		<u>59</u>	Transcript regarding Hearing Held 10/13/2021 Remote electronic access to the transcript is restricted until 7/12/2022. The transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber Christian Naaden, 800-333-2082 before the deadline for Release of Transcript Restriction. After that date it will be available for inspecting and copying in the Clerk's Office and for downloading through PACER. (related document(s) <u>28</u> ). Redaction Request Due By 5/4/2022. Redacted Transcript Submission Due By 5/16/2022. Transcript access will be restricted through 7/12/2022. (trs) (Entered: 04/13/2022)
04/13/2022		<u>60</u>	Notice of Filing of Official Transcript. (related document(s) <u>58</u> Transcript). (trs) (Entered: 04/13/2022)
04/13/2022		<u>61</u>	Notice of Filing of Official Transcript. (related document(s) <u>59</u> Transcript). (trs) (Entered: 04/13/2022)
04/13/2022		<u>62</u>	Appellee Designation of Contents for Inclusion in Record of Appeal Filed by Defendant Philadelphia Indemnity Insurance Company (related document(s) <u>40</u> Notice of Appeal filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan, <u>52</u> Appellant Designation filed by Plaintiff Thomas Fluharty, Plaintiff Martin P. Sheehan). (Varner, Debra) (Entered: 04/13/2022)